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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,615	03/10/2004	Michael Jerry Brown	E0616-00001	4075
28581	7590	06/06/2006	EXAMINER	
DUANE MORRIS LLP PO BOX 5203 PRINCETON, NJ 08543-5203			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/797,615	Applicant(s) BROWN, MICHAEL JERRY	
	Examiner Chi Q Nguyen	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-20, 23 and 39 is/are rejected.
- 7) ☒ Claim(s) 21, 22, 24-38 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the applicant's amendment filed on 3/21/2006.

Specification

The disclosure is objected to because it does not support the claimed subject matter for claim 22.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 12-13, 15, 17, 19, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Spies (US 4,185,940).

In regard claim 1, Spies teaches a supporting system comprising a stationary portion of a hollow structure 3a having a solid sidewall and a top end opening; at least one telescoping member 3 of a hollow structure having a top open end 6 (vent opening) and a bottom open end (see figure 1), in longitudinal alignment with the stationary portion 3a, residing within the top end opening of the stationary portion and longitudinally movable within the top end opening and extendable through the top end opening, and at least one fill port 5 for receiving a cementitious mixture, wherein the stationary portion and the telescoping member form an outer shell defining an internal

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cavity in communication with the at least one fill port for receiving the cementitious mixture (see figure 1, cols. 3-4).

In regard claim 2, wherein the fill port for receiving a cementitious mixture is on the telescoping member 3.

In regard claim 3, wherein the fill port 5 is provided near the top end of the telescoping member 3 (figure 1).

In regard claim 4, wherein the fill port 5 comprises a check valve (col. 4, line 15).

In regard claim 12, wherein the stationary portion 3a having a close bottom end, which serves as a base, and a column portion (no numbered but where 3a points to).

In regard claims 13,15, 17, 19, wherein the stationary portion 3a and the at least one telescoping member 3 are made from polyvinylchloride (see col. 2, line 26).

In regard claim 23, Spies teaches supporting system comprising an outer shell; the outer shell comprising a stationary portion 3a of a hollow structure having a solid sidewall and a top end opening; at least one telescoping member 3 of a hollow structure having a top open end 6 (vent opening) and a bottom open end (shown in figure 1), in longitudinal alignment with the stationary portion, residing within the top end opening of the stationary portion, longitudinal movable within the top end opening and extendable through the top end opening; at least one fill portion for receiving a cementitious mixture, wherein the stationary portion and the telescoping portion form the outer shell defining an internal cavity in communication with the at least one fill port 5 for receiving the cementitious mixture; and a core of cured cementitious material substantially filling the internal cavity (see col. 1 lines 65-end and col. 2, lines 1-6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 14, 16, 18, 20 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spies (US 4,185,940).

In regard claim 5, Spies teaches the structural elements for the telescoping support structure as stated above except for the at least one fill port is provided on the stationary portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a fill port on the stationary portion, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ. The motivation for doing so would have been to minimize a need of having a ladder or a longer hose thus it would minimize a filling time, labor and a risk of falling, etc.

In regard claims 14, 16, 18, and 20 Spies teaches the basis structures for the telescoping support structure as stated above including the shell of the support structure is made by polyvinylchloride (col. 2, line 26). Spies does not specifically teach the stationary and telescoping members are made out of metal alloy. Since the applicant's disclosure does not specify this material would solved or significant to the stated problem; therefore the examiner would take a position that the polyvinylchloride material

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as taught by Spies would capable of performing a similar function such as holding a cementitious mixture in place upon hardening to form a solid column.

In regard claim 39, Spies teaches the structural elements for the telescoping support structures as stated and also teaches a method of supporting a roof (underground excavation such as a mine) including steps of providing a hollow prop casing composed of at least two telescopable sections, erecting the prop casing and telescoping it apart until it bears upon the roof to be supported, arresting the sections of the prop casing in the telescoped-apart positioned, and filling the prop casing with a hardenable substance in flowable condition so that the substance, upon hardening thereof, forms a solid column which is able to support the roof (see col. 1, lines 66-end and col. Lines 1-7). However, the method of installing taught by Spies does not specifically include a step of securing the telescoping member to structural member of a building. At the time of the invention, it would have been obvious to a person in art having an ordinary skill would utilized the support structure that taught by Spies to secure to a building structure while pouring cementitious material to make column or post members for supporting building.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spies (US 4,185,940) in view of Cockman (US 4,923,165).

In regard claims 6 and 7, Spies teaches the basic structures for the telescoping support structures as stated above. However, Spies is silent to at least one ground anchor, which is helical anchor for anchoring the system. Cockman teaches helical anchoring system for post 18 (see figures 1-2). At the time of the invention, it would

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have been obvious to a person having an ordinary skill in the art to have Spies's column or post that support by a well known Cockman's anchoring system for more stability and rigidity to ground thus preventing the column from collapsing, etc.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spies (US 4,185,940) in view of Thomas et al. (US 5,363,610).

In regard claims 8-10, Spies teaches the basic structures for the telescoping support structures as stated above. However, Spies is silent to the telescoping member comprises a fastening system, which comprises one or more brackets and connector for securing the one or more brackets to the telescoping member. Thomas teaches seismic anchor comprising a stationary 40, a telescoping member 30, a fastening system (see figure 8), which comprising one or more brackets 82, and connector 90 for securing the brackets 82 to the telescoping member 30. At the time of the invention was made, it would have been obvious to a person having an ordinary skill in the art to cooperate fastening system taught by Thomas to Spies telescoping support structures when the device to use for securing building structures such horizontal beams, e.g. The motivation for doing so would have been to provide more securement for supporting columns thus preventing building from collapsing when there is a weak support, etc.

Allowable Subject Matter

Claims 21, 22, 24-33, 34-38 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koppers et al. teach telescoping support structure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

5/18/2006

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